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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	77844736
Applicant	Apple Inc.
Applied for Mark	OPENCL
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Submission	Motion to Consolidate Ex Parte Appeals
Attachments	OPENCL -- Motion to Consolidate Ex Parte Appeals.pdf (2 pages)(314267 bytes)
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Date	09/22/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Applications of Apple Inc.

Serial Nos. 77/616,247
 77/844,718
 77/844,736

Marks: OPENCL
 OPENCL & Design (B/W)
 OPENCL & Design (Color)

APPLICANT'S MOTION TO CONSOLIDATE EX PARTE APPEALS

Pursuant to Section 1214 of the Trademark Trial and Appeal Board Manual of Procedure, Applicant Apple Inc. ("Apple") respectfully requests that the Board consolidate the ex parte appeals for Application Serial Nos. 77/616,247, 77/844,718 and 77/844,736 for all purposes, including briefing, oral hearing and final decision.

Apple has filed the above-referenced applications to register OPENCL as a word mark and as part of a design mark. The Examining Attorney refused registration of the word mark OPENCL (Serial No. 77/616,247) on the basis that the mark is merely descriptive, because OPENCL is the name of a computer language and an "industry standard." The Examining Attorney refused registration of the co-pending design marks (Serial Nos. 77/616,718 and 77/616,736) on the basis that the term OPENCL must be disclaimed for the same reason. All three applications were also refused on the basis that the specimen of use, which was the same in each case, does not show use of the mark for Apple's goods. Apple submitted a substitute specimen for Serial No. 77/616,247, but the Examining Attorney has not indicated whether the substitute specimen was accepted. Apple has filed an ex parte appeal on each application.

When an applicant has filed an ex parte appeal in two or more co-pending applications,

and the cases involve common issues of law or fact, the Board may order the consolidation of the appeals for purposes of briefing, oral hearing, and/or final decision, upon request by the applicant or Examining Attorney or upon its own initiative. TBMP § 1214. As indicated above, the ex parte appeals on Application Serial Nos. 77/616,247, 77/844,718 and 77/844,736 involve common issues of law or fact, namely, whether the term OPENCL is merely descriptive for Apple's goods, and whether Apple's specimen shows use of the marks for the goods. Accordingly, Apple respectfully requests that the Board consolidate the ex parte appeals for Application Serial Nos. 77/616,247, 77/844,718 and 77/844,736, and issue an order specifying the due date for Apple's appeal brief for the consolidated appeal.

Respectfully submitted,



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Dated: September 22, 2011